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January 22, 2010

VIA ECF

Honorable Ramon E. Reyes  
United States Magistrate Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: **Vadim Mikhlyn, Inga Mikhlyn and ABC All Consulting, Inc. v. Ana Bove, Polina Dolginov, et al.**  
**Docket No.: 08 CIV. 3367**

Dear Judge Reyes:

This is in response to defendants' letter seeking an extension of the discovery schedule to March 5, 2010.

Although we declined to submit a joint letter requesting an extension, we defer to Your Honor's judgment about whether an extension will be granted.

We are writing to correct inaccuracies in the letter and explain why we did not join in defendants' request.

Unfortunately, defendants have not been cooperating in completing document discovery, nor did we agree to a discovery schedule prior to counsel's current health problems.

When we conferred with Your Honor on December 22, 2009, defendants' counsel acknowledged that we had submitted to them (several times actually) a list of items that were still owed to us. Note that the list included items that defendants were ordered to produce many months and many conferences ago, such as defendants Spanish bank records for the years 2002 and 2003 and the parties' personal financial records from the period when they were all in business together. At the last conference, counsel also claimed that they had a draft of a letter setting forth the items defendants claim to be owed (we had and have asked defendants to

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provide such a list several times). Since the conference, however, we have not heard a word from defendants about our list or theirs.

Similarly, with respect to the remaining depositions, we raised the subject with defendants in an e-mail dated January 5, 2010, and did not hear back from them until January 15, 2010. We then requested an adjustment in the schedule defendants suggested, and we never heard back from them. In fact, we did not receive any response to any of our numerous letters, e-mails and one phone call until January 14, 2010, although we kept stressing the quickly approaching discovery deadline and our need to proceed.

Furthermore, we have been producing documents received from third parties in response to our subpoenas, as such documents come in. To date, however, we have not received any such documents from defendants from their latest post-November, 2009 batch, although they sent out more subpoenas than us – about 28 (with approximately two-thirds of them sent out after November, 2009) to our 20 - including some to the same third parties that have produced documents in response to our subpoenas.

Finally, it should be noted that we served a subpoena on Eugene Sakirski as the Court authorized us to do at the last conference. Although defendants' counsel has informed us that they do not represent him, they are in touch with him and told us that he would not be appearing on the scheduled date of his deposition, which was January 19, 2010. However Your Honor's rules on defendants' extension request, we want to be certain that our opportunity to depose Mr. Sakirski - by compulsion if necessary - is not prejudiced.

As for the staffing of depositions, we have always respected defendants' discretion about which of their two firms should handle depositions. Where, as here, however, we are operating under the latest of several final deadlines for the completion of discovery, we believe that Levisohn Berger LLP – a sophisticated firm with extensive federal court experience - was more than capable of completing the depositions.

Respectfully submitted,



Daniel Akselrod

DA/st

cc: Boris Kogan, Esq. (via fax)  
Peter L. Berger, Esq. (via fax)